IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5798 OF 2007

Yuvraj Govindrao Mandlik.. ....Petitioner
V/s
Chairman, Arunodaya Sahakari
Grihanirman Society Maryadit & Ors.. ....Respondents.

Mr.S.M.Mirajkar, Adv. For the petitioner.

Mr.V.B.Saste, Adv. For the respondent No.1.

CORAM: A.P.DESHPANDE, J.
6/9/07

PC:

Learned counsel for the petitioner points out that the respondent No.1 viz. the revision applicant is only contesting party to the petition and seeks permission to delete other respondents. Having regard to the nature of order that I propose to pass I permit deletion of rest of the respondents.

2. Rejection of an application for vacating the stay filed by the present petitioner before the Additional Commissioner in revision has given rise to the filing of present writ petition. In a suit filed for partition of the joint family properties the dispute came to be resolved by a judgment rendered in Second Appeal No.109/77 dated 12.1.87. The Court while disposing of the second appeal categorically observed that the properties alienated by the co-parceners to the bonafide purchases need to be allotted to the share of such a transferor so that the interest of the purchase is not adversely affected. In other words, directions are issued for adjustment of equities. In execution of the said decree for partition the Tahsildar has demarcated shares of some of the co-

parceners whereas the share of other co-parceners are not yet carved out. The schedule of partition as prepared by the Tahsildar came to be challenged by an appeal before the Sub-Divisional Officer and after rejection of the appeal second appeal has been filed before the Additional Collector and after dismissal of the appeal by the Collector revision is carried by respondent No.1 before the Additional Commissioner who had passed the impugned order. It is thus obvious that if the stay granted in favour of the respondent No.1 by the Commissioner is vacated the partition would be acted upon affecting the right of respondent No.1. Perused the order passed by the Commissioner. Same does not call for interference. Hence writ petition deserves to be dismissed and I order accordingly. However both the learned advocates agree that ends of justice would be met by directing the Additional Commissioner to decide the revision as expeditiously as possible. Having regard to the nature of controversy and the long drawn litigation for partition over years I deem it appropriate to direct the Additional Commissioner to decide the revision as expeditiously as possible and preferably within a period of three months from today.

6.9.07